

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

2012 NOV -6 P 12:08

CLERK

SO. DIST. OF GA.

WILLIAM RUSSELL WARE,

Plaintiff,

v.

CIVIL ACTION NO.: CV612-056

BRIAN OWENS, Commissioner;
STANLEY WILLIAMS; EYVETTE
COOK; and CO II MS. MARTIN,

Defendants.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff William Russell Ware ("Plaintiff"), an inmate currently incarcerated at Hancock State Prison in Sparta, Georgia, filed an action pursuant to 42 U.S.C. § 1983 contesting certain conditions of his confinement while he was housed at Smith State Prison in Glennville, Georgia. The undersigned ordered service of Plaintiff's potential claim for violation of Plaintiff's due process rights against Defendant Warden Williams. (Doc. No. 10). The undersigned recommended dismissal of Plaintiff's other allegations against Warden Williams and all of Plaintiff's allegations against former Defendants Cook, Owens, and Martin. (Doc. No. 11). The Court adopted the undersigned's recommendation of dismissal by Order dated November 1, 2012. (Doc. No. 19).

Plaintiff filed a separate action stating the same allegations brought in the instant action. Ware v. Owens, CV612-087. Recognizing that the two actions were virtually identical, Plaintiff moved to consolidate them in this action via a document titled

"Supplementary Motion to Amends," which was docketed as a motion to amend his Complaint. (Doc. No. 16). By Order dated October 30, 2012, the Court consolidated the actions and closed CV612-087.¹ (Doc. No. 17). That Order directed the Clerk of Court to docket the CV612-087 complaint as an Amended Complaint in the instant case. (Id.). That Order also referred Plaintiff's Amended Complaint, (Doc. No. 18), to the undersigned for the requisite frivolity review. (Doc. No. 17).

The allegations brought in Plaintiff's Amended Complaint are virtually identical to the allegations brought in his original Complaint. Those allegations have already been dealt with, as explained above. As a result, Plaintiff's Amended Complaint should be **dismissed**.

SO REPORTED and RECOMMENDED, this 6th day of November, 2012.


JAMES E. GRAHAM
UNITED STATES MAGISTRATE JUDGE

¹ As a result, the undersigned dismissed Plaintiff's "Supplementary Motion to Amends" as moot. (Doc. No. 20).